United Nations A/66/749

General Assembly

Distr.: General
16 March 2012

Original: English

Sixty-sixth session
Agenda item 83
The rule of law at the national and international levels

Delivering justice: programme of action to strengthen the rule of law at the national and international levels

Report of the Secretary-General

Summary

Respect for the rule of law at the international and national levels is central to ensuring the predictability and legitimacy of international relations, and for delivering just outcomes in the daily life of all individuals. While responsibility for strengthening the rule of law lies with Member States and their citizens, the United Nations is ideally placed to support Member States' efforts and to provide integrated and effective assistance. To galvanize collective efforts to strengthen the rule of law at the national and international levels, the Secretary-General proposes that the General Assembly adopt a programme of action for the rule of law, agree to a process to develop clear rule of law goals and adopt other key mechanisms to enhance dialogue on the rule of law. Member States should also take the occasion of the high-level meeting of the General Assembly on the topic "The rule of law at the national and international levels" during the sixty-seventh session to make individual pledges related to the rule of law.

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I. Introduction

1. The global system is coming under unprecedented stress from interconnected and complex transformations in our human and physical geography. Environmental degradation, rapid urbanization, conflict, severe income inequalities and exclusion of vulnerable groups pose major challenges to human development and security. Robust principles are needed to underpin the management of our future. The rule of law is a core principle of governance that ensures justice and fairness, values that are essential to humanity. The rule of law is central to the vision of the Secretary-General for the coming five years, and must guide our collective response to a fast-changing world.

2. The United Nations defines the rule of law as a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (see S/2004/616).

3. At the international level, the rule of law accords predictability and legitimacy to the actions of States, strengthens their sovereign equality and underpins the responsibility of a State to all individuals within its territory and subject to its jurisdiction. Full implementation of the obligations set forth in the Charter of the United Nations and in other international instruments, including the international human rights framework, is central to collective efforts to maintain international peace and security, effectively address emerging threats and close off accountability gaps for international crimes.

4. At the national level, the rule of law is at the heart of the social contract between the State and individuals under its jurisdiction, and ensures that justice permeates society at every level. The rule of law guarantees the protection of the full range of human rights, brings citizens and non-citizens alike legitimate avenues of recourse in cases of abuses of power and allows for the peaceful and fair resolution of disputes. The rule of law is ensured by national institutions that can generate and implement clear, public and just laws, and that provide fair, equitable and accountable public services to all people equally. Strengthening the rule of law fosters an environment that facilitates sustainable human development and the protection and empowerment of women, children and vulnerable groups, such as internally displaced persons, stateless persons, refugees and migrants.

5. While responsibility for ensuring the rule of law at the international and national levels lies with Member States and their citizens, the United Nations can assist in strengthening it. Such assistance must be in line with the internationally agreed normative framework, but must also be led by national aspirations and anchored in the national context.

6. Each of the principal organs of the United Nations, including the Secretariat and its various departments and offices, in addition to the United Nations funds and programmes, engages in a wide range of rule of law activities. Many other multilateral actors and bilateral donors, private foundations and non-governmental

organizations are also involved in such activities. The breadth of the rule of law and the number of actors involved create challenges in prioritization, coordination and coherence.

7. To address these challenges, the Secretary-General has identified key commitments to be made by Member States and the United Nations to strengthen the rule of law at the national and international levels. These commitments are set out below in the form of a programme of action, which the Secretary-General proposes for adoption during the sixty-seventh session of the General Assembly at the high-level meeting on the topic "The rule of law at the national and international levels".

8. Looking ahead, the Secretary-General firmly believes that it is crucial for Member States to agree on key goals in relation to the rule of law, with corresponding targets, so that Member States and the United Nations have clear objectives towards which to work. The Secretary-General proposes that Member States agree to embark on this process at the high-level meeting.

9. The Secretary-General also proposes the adoption at the high-level meeting of other mechanisms aimed at strengthening dialogue on the rule of law at the international and national levels. Lastly, to make full use of the unique opportunity afforded by the high-level meeting, the Secretary-General proposes that Member States make individual pledges on the rule of law based on national priorities.

II. Programme of action

10. The Secretary-General proposes that Member States and the United Nations make a number of the commitments set out below, which are aimed at addressing the current challenges in strengthening the rule of law at the international and national levels. They take the form of a programme of action aimed at creating a common agenda for all Member States and the United Nations so that future discussions in this broad area can be more effectively structured and collective action better targeted.

A. Strengthening the rule of law at the international level

1. Increasing compliance with international law

(a) Strengthening compliance in the context of the United Nations

11. The Charter of the United Nations is the foundation of the rule of law at the international level. It is applicable to all Member States equally and to the principal organs of the United Nations. In addition, Member States are bound by the wider body of international law. In this respect, it is important for the Security Council, in addition to the other principal organs of the United Nations, to fully adhere to applicable international law and basic rule of law principles to ensure the legitimacy of their actions. In this connection:

(a) Member States and the principal organs of the United Nations must commit themselves to applying the Charter of the United Nations and the wider body of international law consistently and even-handedly in their policies and practices;

(b) The Secretary-General encourages Member States to bring forward and finalize intergovernmental discussions on Security Council reform;

(c) The Secretary-General fully accepts that relevant international law, notably international human rights, humanitarian and refugee law, is binding on the activities of the United Nations Secretariat, and is committed to complying with the corresponding obligations;

(d) The Secretary-General fully supports the new system of administration of justice and will ensure that the principles of the rule of law are consistently applied throughout the United Nations.

(b) Ensuring national implementation

12. The body of international norms and standards developed under the auspices of the United Nations remains one of the Organization's greatest achievements. While there are more areas in which law-making would be valuable, the real challenge lies in the implementation of the existing legal framework. Respect for this framework is poor, violations frequent and the political will to ensure consistent compliance too weak. The technical and financial capacities required to fulfil obligations are often limited. In this connection:

(a) Member States should ratify or accede to international treaties to which they are not yet party, and review and remove any reservations to treaties to which they are party;

(b) Member States should consistently and fully implement international legal instruments, including through specific national action plans, backed by political will and financial commitments;

(c) Where compliance with international obligations is hampered by capacity deficits, Member States should commit themselves to seeking international assistance from bilateral and multilateral assistance providers;

(d) The Secretary-General commits himself to providing an integrated response to requests by Member States for assistance in the implementation of their international obligations.

(c) Strengthening treaty bodies

13. Many international instruments include mechanisms that review Member States' compliance. Such mechanisms provide an essential tool to strengthen implementation and highlight capacity gaps. Support for treaty monitoring bodies should be strengthened and their recommendations consistently implemented. In this connection:

(a) Member States should commit themselves to allocating adequate resources to treaty body mechanisms, to regularly fulfilling their reporting requirements and to implementing their findings and recommendations;

(b) Where failure to report or to implement recommendations stems from capacity deficits, Member States should commit themselves to seeking international assistance;

(c) Bilateral and multilateral assistance providers should integrate support for the implementation of recommendations of treaty body mechanisms into their rule of law assistance budgeting and planning;

(d) The Secretary-General stands ready to provide an integrated response to requests by Member States for assistance.

2. Strengthening international dispute resolution

14. One of the central features of the rule of law at the international level is the ability of Member States to have recourse to international adjudicative mechanisms to settle their disputes peacefully, without the threat or use of force. Unfortunately, reluctance by some States to consistently use international adjudicative bodies and jurisdictional barriers to them have contributed to concerns that the international legal system is not equally accessible to all and that international law is selectively applied.

(a) Strengthening the International Court of Justice and its role in international relations

15. The International Court of Justice remains the only judicial forum before which Member States can bring virtually any legal dispute concerning international law. No other forum's jurisdiction is potentially as far-reaching as that of the Court, yet the Court is competent to hear a case only if the States concerned have accepted its jurisdiction. Such an acceptance can take the form of the conclusion of an ad hoc agreement to submit a specific dispute to the Court or of a jurisdictional clause of a treaty. The Court's jurisdiction can also derive from the optional declarations accepting such jurisdiction as compulsory. Such optional declarations are the best way of ensuring that all inter-State disputes are settled peacefully. To date, however, only 66 Member States have accepted as compulsory the jurisdiction of the Court. In this connection:

(a) Member States should accept as compulsory the jurisdiction of the International Court of Justice;

(b) The Secretary-General will launch a campaign to increase the number of Member States that accept as compulsory the jurisdiction of the International Court of Justice.

16. The General Assembly and the Security Council have the ability to refer any legal question to the Court for an advisory opinion, as do other organs of the United Nations and the specialized agencies when authorized to do so by the General Assembly. This enables the principal organs of the United Nations to ensure that any action that they take is in accordance with the Charter and international law, increasing the legitimacy of their actions. In practice, however, these advisory opinions are rarely sought. In this connection:

The General Assembly, the Security Council and other organs of the United Nations, as applicable, should commit themselves to making greater use of their ability to request advisory opinions from the International Court of Justice.

(b) Strengthening other international adjudicative bodies

17. International adjudicative bodies themselves are often underresourced and do not have the necessary political support, especially in view of their lack of enforcement mechanisms. Accordingly, the non-implementation of decisions of such bodies is an enduring problem. In this connection:

(a) Member States should resolve to provide international adjudicative bodies with sufficient resources for them to deal with their caseloads efficiently;

(b) Member States should commit themselves to complying systematically with all final and binding decisions of international adjudicative bodies.

B. Strengthening the rule of law at the national level

1. Improving service delivery

(a) Effective and equitable delivery

18. A strong rule of law relies on effective and equitable delivery of public services to all individuals within a jurisdiction, without discrimination, in line with internationally accepted norms and standards. Such public services include policing, criminal justice, corrections, civil and administrative justice, legal aid and assistance and law-making. Ensuring equitable access to these services may require the adoption of special measures for marginalized and otherwise vulnerable groups and for victims and witnesses of specific crimes, such as sexual and gender-based crimes, or those in need of international protection. The legitimacy of the State can be compromised by failure to deliver just, equitable and effective services that ensure the rule of law. In this connection:

(a) Member States should take all necessary steps to provide services that ensure the rule of law in a fair, effective, non-discriminatory and accountable manner. Such services must meet international standards and be available and accessible nationwide. Special measures must be taken to ensure that women, children and vulnerable groups enjoy full access to services related to the rule of law, and that those services respond to their rights and needs;

(b) Member States should commit themselves to supporting legal aid and assistance services, including to the poorest and most vulnerable.

(b) Accountable and transparent delivery

19. Within justice, security and law-making institutions, it is important to enhance transparency, accountability and oversight, and to widen participation in decision-making processes, in order to build public confidence and trust. In this connection:

Member States should ensure that their legal frameworks include basic principles of open government, such as fiscal transparency, access to information, disclosures related to public officials, accountability, remedies and oversight mechanisms, protection measures for whistle-blowers and witnesses, and public engagement in policy and decision-making, and that such legal frameworks are effectively implemented.

(c) National budgeting and planning

20. Proper resourcing, budgeting, planning and management are also key to ensuring greater levels of competency that lead to public confidence in justice, security and law-making institutions. In this connection:

(a) Member States should ensure that rule of law institutions receive an adequate share of the national budget, and have effective planning and management structures in place, so as to execute their functions in a professional and accountable manner, fairly and independently, free of corruption and bias;

(b) Member States should consider preparing and publishing multi-year national rule of law strategies.

(d) National data collection

21. Data collection and analysis are critical to strengthening service delivery, and enable the creation of baselines against which policies can be developed and action targeted towards priority areas. In this connection:

(a) Member States should devote greater resources to enhancing the capacity of national institutions to systematically collect and analyse data related to the rule of law, such as crime rates, sentencing patterns, average time for completion of trials, pretrial detention rates, percentage of population using civil courts, rates and speed of enforcement of court decisions, and the use of tools such as public perception surveys in respect of the rule of law sector, in line with internationally accepted norms and standards of data protection. Such efforts need to ensure that all data are disaggregated by sex in order to inform delivery that meets the needs of all people;

(b) Member States should facilitate the implementation of impact monitoring tools to observe changes in the performance and fundamental characteristics of justice institutions.

(e) Civil society

22. The rule of law is strengthened when all individuals are empowered to claim their rights, to request effective remedies and to express legitimate demands on public institutions for accountability in the fair and just delivery of public services. Civil society organizations, including professional associations of lawyers, prosecutors and judges, academic and policy research institutions, paralegal organizations and advocacy organizations focusing on the rule of law, all make important contributions to strengthening services that ensure the rule of law, especially by empowering and informing individuals. In this connection:

Member States should commit themselves to granting all individuals their full right to association and assembly, and to supporting civil society organizations and giving them the necessary legislative and political space to thrive.

(f) Traditional and informal justice systems

23. Member States may have justice mechanisms based on tradition, custom or religion operating alongside State institutions. These systems can play an important part in the delivery of justice services, including the adjudication and determination of disputes. In this connection:

(a) Member States and the United Nations should ensure that all laws and justice mechanisms, including traditional and informal justice mechanisms, are in line with international norms and standards;

(b) Member States should develop strategies for clarifying and strengthening the relationship between traditional and informal justice systems and formal justice systems;

(c) Member States should develop strategies for ensuring that everyone, particularly women and those belonging to vulnerable or otherwise marginalized groups, enjoys equal access to justice within all justice delivery mechanisms.

2. Supporting peace and security in conflict and post-conflict situations

24. In conflict and post-conflict situations, the United Nations supports rule of law initiatives that are indispensable for the establishment of peace and security. High-level political and strategic engagement by the United Nations on rule of law issues is combined with initiatives for building the capacity and integrity of key national justice and security institutions, including the police, the judicial system and prisons. Broadly, assistance is provided in ensuring accountability and reinforcing norms, building confidence in justice and security institutions and promoting gender. It also includes innovative mechanisms, such as the prosecution support cells in the Democratic Republic of the Congo, which have been established to assist national authorities in the prosecution of serious crimes. It is of paramount importance to recognize the critical contribution that justice institutions make to the establishment of peace and security in conflict and post-conflict situations, and support should be provided in a commensurate and well-sequenced manner.

25. While there is an increased focus on strengthening the rule of law in conflict and post-conflict settings, the human and financial resources required to implement activities are often lacking and critical capacity gaps persist in key areas. The steering committee on civilian capacity in the aftermath of conflict is working to address these gaps through strengthened partnerships with Member States, civil society and other multilateral partners, particularly in the global South, and with greater clarity and accountability in United Nations support. In addition, there are limited empirical data on the strength and effectiveness of key rule of law institutions. Member States should be encouraged to make sufficient resources available, especially when rule of law initiatives have been explicitly mandated by the Security Council. In this connection:

(a) Member States should nominate civilian justice experts to support United Nations initiatives in the rule of law sector in conflict and post-conflict situations;

(b) Member States should support and fund the development and implementation of multi-year joint United Nations programmes for strengthening the rule of law in conflict and post-conflict settings, and should support with human and financial resources innovative mechanisms such as the prosecution support cells;

(c) Member States should enhance resources for rule of law activities carried out in the context of United Nations peacekeeping operations and special political missions, including voluntary contributions to rule of law actions implemented by relevant United Nations entities, agencies, funds and programmes;

(d) Member States should support the use of the United Nations Rule of Law Indicators as a non-ranking, key instrument for measuring the strengths and effectiveness of law enforcement, judicial and correctional institutions in conflict and post-conflict environments.

3. Fostering an enabling environment for sustainable human development

26. Sustainable human development is facilitated by a strong rule of law. The provision and implementation of stable and predictable legal frameworks for businesses and labour stimulate employment by promoting entrepreneurship and the growth of small and medium-sized enterprises, and attracting public and private investment, including foreign direct investment. The link between economic development and the rule of law has long been established. Rising inequalities in wealth within and among countries are now a key concern with the potential to weaken and destabilize societies. The United Nations supports the development of a holistic sustainable human development agenda that addresses the challenges related to inclusive growth, social protection and the environment. In such an agenda, the rule of law must play a critical role in ensuring equal protection and access to opportunities.

(a) Fostering economic growth

27. Member States should renew their focus on the rule of law to foster enabling environments for sustainable economic growth. Such growth must be equitable, inclusive and socially responsible in order to create sufficient stability for poverty reduction and peacebuilding initiatives to take root. In this connection:

(a) Member States must resolve to develop and implement adequate legal frameworks to boost entrepreneurship and public and private sector investment, and for the development of small and medium-sized enterprises;

(b) A number of conventions and other legal texts in the domain of trade, investment and development have been developed in the context of the United Nations, and Member States should consider adopting and implementing these. Where implementation is hampered by capacity deficits, Member States must commit themselves to seeking international assistance and to providing adequate funding for such assistance;

(c) Member States must resolve to take steps to encourage employment and implement internationally agreed labour norms and standards, including for those individuals employed in the informal sectors.

(b) Fighting corruption

28. Corruption is a challenge that needs to be addressed by all Member States, particularly since there is a strong link between low levels of corruption and economic and social development. Under the auspices of the United Nations, Member States have created a strong normative framework to meet this challenge, and the focus must now be on universal adherence to the framework, and its full implementation. In this connection:

(a) Member States must consider ratifying the United Nations Convention against Corruption and fully implementing its provisions, making use of the peer

review mechanism established by the Conference of the States Parties to the Convention;

(b) Bilateral and multilateral assistance providers should integrate into their rule of law budgeting and planning support for the technical assistance needs of Member States, as identified through the peer review mechanism of the United Nations Convention against Corruption.

(c) Protecting housing, land and property rights

29. The equitable and transparent administration of housing, land and property based on rule of law principles is key to economic, social and political stability. Serious deficits in this area have caused many violent conflicts and prolonged displacement. In this connection:

Member States should resolve to put in place and fully implement housing, land and property governance systems that effectively protect international social and economic rights, with particular emphasis on ensuring women's equal rights to housing, land and property, including through succession and inheritance.

(d) Creating and maintaining civic records

30. Ensuring appropriate civil registration and keeping comprehensive civic records is central to legal recognition by the State and equality before the law, and enables individuals to participate in economic and political processes, seek State protection and to gain access to public services such as health and education. In this connection:

Member States should resolve to establish effective systems for free and universal birth registration, and for citizenship and other civic records, which are fully accessible to all.

4. Empowering women and children

31. Women worldwide face violence, the denial of basic rights and discrimination, often compounded by poverty, age and legal status. Weak legal frameworks and gender and age biases of State actors abet discriminatory policies and practices of institutions, limiting women and children's access to legal redress and discouraging women and children from reporting crimes against them.

(a) Empowering women

32. The marginalization of women negatively affects economic growth and social welfare. Women are key actors for development in their communities and must be empowered to use the law to uphold their interests, including by fully participating in rule of law institutions. In this connection:

(a) Member States should resolve to repeal discriminatory legislation and to adopt appropriate legal frameworks to prevent discrimination against women;

(b) Member States should commit themselves to actively promoting equal access to justice, including by removing all obstacles to services that women face, and to putting in place positive measures to enhance access to these services;

(c) Member States should also resolve to increase the participation of women in the delivery of services that ensure the rule of law, including by establishing minimum quotas in relevant professions;

(d) Member States should increase the amount of funding allocated to gender-responsive rule of law assistance initiatives.

(b) Empowering children

33. The way in which children are treated by national legal, social welfare, justice and security institutions is integral to the development of the rule of law at the national level. Justice for children aims to ensure full application of international norms and standards for all children who come into contact with justice and related systems as victims, witnesses and alleged offenders, or for other reasons where judicial, State administrative or non-State adjudicatory intervention is needed (for example, regarding their care, custody or protection). Important progress notwithstanding, girls and boys are still to be viewed as full stakeholders in rule of law initiatives. Given the strong cultural dimension of the rule of law, ensuring child rights education and legal awareness for all children, and for families and communities, is key for the long-term growth of the rule of law.

34. The relevant provisions of the Convention on the Rights of the Child and other international legal instruments related to justice for children have yet to be systematically reflected in broader policy reform, programmes and other efforts to strengthen the rule of law at the national level. In this connection:

(a) Member States should resolve to regard the rights of girls and boys as integral to their initiatives to strengthen the rule of law;

(b) Member States should commit themselves to putting in place adequate policies to protect children, beginning with the establishment of systems for free and universal birth registration, and ensuring that age assessment processes fully respect the rights and best interests of the child;

(c) Member States should resolve not to use detention in respect of girls and boys, except as a last resort, and should develop appropriate diversion programmes and alternatives to detention.

C. Strengthening the nexus between the national and international levels

35. Some threats and crimes, while committed on national territory, are addressed through international legal mechanisms. It is therefore important to strengthen the nexus between the rule of law at the national and international levels.

1. Establishing the age of accountability

36. The commission of international crimes and other gross violations of human rights undermines the fabric of societies and destabilizes affected States and their regions, threatening international peace and security. In the aftermath of such crimes and violations, ensuring accountability and providing all victims with the right to an effective remedy giving redress and adequate reparations for the atrocities

committed against them are key to increasing public trust in justice and security institutions, and to building the rule of law and sustainable peace.

(a) Ensuring investigations and prosecutions

37. Member States are responsible for investigating, prosecuting and trying, or extraditing, perpetrators of international crimes and other gross violations of human rights. The commission of such crimes and violations anywhere in the world is of legitimate concern to every Member State, the United Nations and the international community as a whole. In this connection:

(a) All Member States must commit themselves to ensuring accountability for international crimes and other gross violations of human rights;

(b) Member States should not take measures that prevent accountability, such as granting or endorsing amnesties for international crimes and other gross violations of human rights;

(c) Member States in whose jurisdiction international crimes and other gross violations of human rights have occurred, or Member States of which the person accused of the crime is a national, must support politically and financially domestic prosecutions of alleged perpetrators of international crimes and other gross violations of human rights, while guaranteeing the full judicial, prosecutorial and investigative independence of these processes;

(d) Where a Member State with jurisdiction over international crimes and other gross violations of human rights cannot or will not investigate or prosecute crimes and violations, the State concerned should consider referring the matter to an appropriate regional or international accountability mechanism, or extraditing the alleged perpetrator to any country that has claimed jurisdiction over the violations;

(e) Where a Member State with jurisdiction over international crimes and other gross violations of human rights cannot or will not exercise jurisdiction, other Member States should explore avenues for exercising their own jurisdiction and make corresponding extradition requests.

38. Children who are accused of international crimes and gross violations of human rights require special consideration. In this connection:

(a) Where international crimes and gross violations of human rights are allegedly committed by children associated with armed forces or armed groups, Member States should regard the children primarily as victims and not as perpetrators;

(b) Member States should not prosecute, punish or threaten with prosecution or punishment children who have been associated with armed forces or armed groups solely for their membership of those forces or groups;

(c) When children engage as witnesses in judicial or non-judicial accountability processes, Member States should commit themselves to putting in place protection procedures and legal safeguards to protect their rights before, during and after their testimony or statement.

(b) Strengthening national capacities

39. Inadequate capacity within domestic institutions fosters impunity for the perpetrators of international crimes and other gross violations of human rights. The United Nations has developed innovative mechanisms to assist national authorities in investigating, prosecuting and trying alleged perpetrators of such crimes and violations, for instance through capacity-building of police to investigate sexual and gender-based violence cases, and the prosecution support cells used in the Democratic Republic of the Congo, as mandated by the Security Council in its resolutions 1925 (2010) and 1991 (2011). In this connection:

(a) Member States must resolve to strengthen their national systems to conduct investigations and prosecutions of alleged perpetrators of international crimes and other gross violations of human rights, and to seek international assistance to do so, where necessary. Specific efforts should be made to build the necessary capacity to investigate, prosecute and try sexual and gender-based crimes, and crimes against children;

(b) Bilateral and multilateral assistance providers should integrate into their rule of law assistance support for strengthening national capacity to pursue domestic proceedings for international crimes and gross violations of human rights, and ensure that such assistance is nationally and locally driven;

(c) The Secretary-General will ensure that the United Nations is able to provide an integrated response to any request by Member States for assistance.

(c) Other accountability mechanisms

40. In addition to the primary role of national authorities to punish those responsible for international crimes and other gross violations of human rights, international and hybrid criminal tribunals have played an important role in closing the accountability gap. Commissions of inquiry and fact-finding missions have also been increasingly viewed as effective tools to draw out facts necessary for wider accountability and transitional justice efforts. Similarly, in the case of children in situations of armed conflict, the monitoring and reporting mechanism on children and armed conflict, as mandated by the Security Council in its resolutions 1612 (2005), 1882 (2009) and 1998 (2011), is an important tool to galvanize accountability efforts for grave crimes against children. With regard to women, peace and security, new mechanisms have been established by the Security Council in resolutions 1888 (2009) and 1960 (2010). In this connection:

(a) Member States should encourage and support national and international commissions of inquiry and fact-finding missions, established in accordance with international standards, and support the implementation of their recommendations. Member States with seats on the Security Council and the Human Rights Council have particular responsibility in this regard;

(b) Member States should cooperate fully with international and hybrid accountability mechanisms established by the United Nations or with its support;

(c) Member States that are party to the Rome Statute of the International Criminal Court must incorporate the Rome Statute into national legislation and should discharge their obligations to cooperate fully with the Court;

(d) All Member States not party to the Rome Statute should consider ratifying it;

(e) Where a Member State with jurisdiction over international crimes cannot or will not exercise jurisdiction, and is not a party to the Rome Statute, Member States that are members of the Security Council should consider referring the situation to the Prosecutor of the International Criminal Court, under Chapter VII of the Charter of the United Nations.

(d) Focusing on victims

41. Victims must take a central place in any system of accountability for international crimes and other gross violations of human rights. In this connection:

(a) Member States should resolve to support, financially and politically, transitional justice mechanisms aimed at establishing the truth, reconciliation and furthering accountability in relation to the commission of international crimes and other gross violations of human rights, and to follow up on the recommendations and decisions of such mechanisms;

(b) Member States should consider ways to effectively meet their obligations to grant remedies and reparations to victims of international crimes and other gross violations of human rights, with special consideration for groups most affected by these crimes and those who have traditionally been excluded from or marginalized in reparations programmes, such as victims of sexual and gender-based violence;

(c) Member States should consider developing comprehensive victim and witness protection programmes covering international crimes and gross violations of human rights.

2. Addressing transnational threats

42. Transnational threats, such as organized crime, piracy and trafficking, are both the cause and consequence of a weak rule of law environment, and pose a serious challenge to the legitimacy of the State and to international peace and security. Networks of organized criminal groups are challenging the authority of the State. Law enforcement authorities can lag behind organized criminal groups in organizational skills and employment of new technology. Insufficient cooperation among law enforcement authorities within and across borders hinders progress. At the same time, growing levels of corruption facilitate transnational organized crime by weakening economies and draining Government revenues, thereby reducing people's confidence in rule of law institutions.

(a) Implementing the normative framework

43. A solid normative framework has been put in place to fight transnational threats, through the United Nations Convention against Transnational Organized Crime and the three optional protocols that supplement it: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

44. In addition to international and regional anti-terrorism conventions, all Member States have agreed on a coordinated and comprehensive response to terrorism at the national, regional and global levels through the adoption, and subsequent reaffirmation, of the United Nations Global Counter-Terrorism Strategy by the General Assembly (see resolution 60/288). Through the Global Strategy, which includes a plan of action, all Member States have made respect for all human rights and the rule of law the fundamental basis of efforts to combat terrorism.

45. Focus must now be on universal adherence to this normative framework and its full implementation. In this connection:

(a) All Member States should consider ratifying or acceding to the United Nations Convention against Transnational Organized Crime and its optional protocols, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;

(b) Member States that are party to the United Nations Convention against Transnational Organized Crime and its protocols must fully implement this normative framework in their jurisdictions, and cooperate with other Member States as required;

(c) Member States should commit themselves to adopting comprehensive strategies to combat trafficking, including protection and prevention measures, efforts to prosecute perpetrators and increased access to a full range of reparations measures, including legal redress for victims of trafficking;

(d) Member States should strengthen their capacity to effectively track, seize and confiscate illicit assets and proceeds of crime in order to disrupt the financial flows of organized criminal groups, and consider establishing a designated authority in charge of the management and disposal of illicit assets;

(e) Member States should implement the United Nations Global Counter-Terrorism Strategy and, in particular, develop and maintain an effective and rule of law based national criminal justice system in order to ensure that individuals suspected of involvement in terrorist acts are brought to justice, on the basis of the principle to extradite or prosecute, in accordance with international human rights, humanitarian and refugee law, including due process guarantees.

(b) Increasing cooperation

46. There is growing acknowledgement that regional approaches are required to address transnational threats, involving close cooperation and capacity-building at both the national and regional levels. The exchange and sharing of information by national authorities are important in understanding transnational threats more fully. The problem of piracy clearly demonstrates the increasing interdependence of Member States and people in a globalized world. The human, commercial and security interests under threat engage many Member States and international and regional organizations with a stake in finding a solution. In this connection:

(a) Member States should cooperate in identifying and sharing information about specific transnational threats;

(b) Member States should establish national and regional policies and programmes to protect adolescents and young people from being used or recruited by organized crime and terrorist groups;

(c) The United Nations and Member States should commit themselves to supporting the United Nations system task force on transnational organized crime and drug trafficking as threats to security and stability, with a view to ensuring joint programming that mainstreams issues of transnational threats into conflict prevention, peacebuilding and development planning.

D. Strengthening support to Member States

47. Strengthening the rule of law is a long-term endeavour requiring the United Nations and other multilateral and bilateral actors to adopt flexible and coordinated mechanisms to assist States effectively. While progress has been made, assistance remains fragmented and its effectiveness uncertain.

1. Political engagement

48. The rule of law is at the heart of State sovereignty and national systems of governance. Consequently, efforts to strengthen the rule of law are inherently political and require the support and involvement of key national stakeholders to ensure the authority, credibility and legitimacy required for rule of law initiatives to achieve results. Assistance providers must engage in a frank political dialogue with a wide range of national stakeholders, including the appropriate Government officials, for any rule of law assistance programmes to succeed. In this connection:

(a) The Secretary-General will promote the use of rule of law compacts, or similar instruments, with national authorities so that clear objectives on rule of law assistance are agreed upon and mutual accountability defined;

(b) Within the United Nations, the Secretary-General resolves to work with senior managers, including United Nations resident coordinators and special representatives of the Secretary-General, to make the rule of law a priority in high-level dialogue with national authorities;

(c) Member States should contribute to a high-level dialogue with national stakeholders in support of agreed rule of law priorities.

2. Coordination

49. Successful support for the rule of law requires more active coordination between the United Nations, Member States and national stakeholders. Member States contribute the vast majority of donor funding for rule of law initiatives through bilateral programmes, often in parallel with multilateral efforts and national strategies. Improved coordination among bilateral programmes and multilateral donors, with national leadership and in line with nationally owned strategies, can lead to more effective and efficient use of resources. In this connection:

(a) Within the United Nations, the Secretary-General resolves to increase coordination among United Nations entities working in the rule of law sector by strengthening coordination mechanisms with enhanced mandates and reaffirming the important role of special representatives of the Secretary-General and/or resident coordinators in ensuring consistent and coherent programme delivery throughout the United Nations;

(b) Member States and the United Nations resolve to apply a joint and comprehensive approach, clearly articulating priorities and plans for sequencing interventions;

(c) Member States and the United Nations resolve to support nationally led donor coordination and consultation mechanisms that direct assistance and funding, on the basis of national rule of law strategies and priorities;

(d) Member States and the United Nations should commit themselves to enhancing assistance to build national capacity in lead ministries and other appropriate institutions to plan and coordinate the international assistance that they receive;

(e) Member States should make more consistent use of multilateral mechanisms to provide rule of law assistance.

3. Funding

50. Member States can provide financial incentives for coordinated joint programming between United Nations entities by channelling their funding through basket funds or other pooled funding arrangements. Joint programmes funded through multi-year pooled arrangements will support national priorities more effectively and reduce administrative and other costs to national administrations. In this connection:

(a) Within the United Nations, the Secretary-General resolves to develop and implement multi-year joint programmes for strengthening the rule of law, including police, judicial and corrections institutions, and to ensure that they are planned, funded, implemented, monitored and evaluated jointly. In countries with United Nations peacekeeping operations or special political missions, this will be based on integrated planning processes;

(b) Member States should enhance resources for United Nations rule of law assistance and commit themselves to increasing support through multi-year joint United Nations programmes with a view to ensuring comprehensive approaches.

4. Joint assessments

51. For Member States and the United Nations to understand the capacity gaps, and to design and agree on comprehensive rule of law assistance programmes, thorough assessments of the sector must be conducted. Joint assessments, agreed upon by the recipient State, the United Nations and all interested donors, can improve effective programming, including the development of United Nations joint programmes and workplans. Efforts should be made to mainstream this approach in rule of law assistance. In this connection:

(a) The Secretary-General is committed, in order to conduct thorough assessments of the rule of law sector, to fostering the use of existing tools and to developing new tools that are rooted in the political economy of a country and fully reflect individual complexities and power structures;

(b) Member States should consider the use of joint assessments when coordinating or delivering rule of law assistance.

5. Monitoring and evaluation

52. It should become a regular practice to establish baselines that can be measured to monitor and evaluate progress and assess the effectiveness of rule of law assistance. National ownership is critical in identifying indicators and supporting capacity-building for justice and security institutions to gather and assess data and measure developments. In this connection:

> As a means of strengthening the United Nations approach to measuring the effectiveness of rule of law assistance, the Secretary-General will mainstream the use of existing instruments for measuring the strengths and effectiveness of law enforcement, judicial and correctional institutions in conflict and post-conflict environments, and the use of baseline statistical surveys, benchmarking exercises and regular reporting of progress against indicators.

III. Mechanisms to strengthen the rule of law at the international and national levels

53. To strengthen the rule of law at the international and national levels, the Secretary-General proposes that the General Assembly adopt the mechanisms described below.

A. Rule of law goals

54. Developing clear, simple and common goals for the rule of law, with corresponding benchmarks and indicators measuring progress towards those goals, would be essential for Member States and the United Nations in generating collective, measurable progress towards implementing the programme of action.

55. The Millennium Development Goals have shown that, where Member States have agreed upon specific goals, the international community has been able to better prioritize actions and generate more targeted resources. Internationally agreed goals and corresponding benchmarks have proved useful in measuring progress and in constructing an inclusive national dialogue on strategies to meet those goals. The Secretary-General therefore believes that the development of common goals in the area of the rule of law is important for Member States and the United Nations. The consultative forum proposed below could be the appropriate venue to inform this process.

56. Member States may also wish to consider how progress in the attainment of rule of law goals, once agreed upon, can be effectively monitored, and how they can seek assistance in meeting the goals, where progress is lacking. A number of peer review processes are already in place in other forums, and the Secretary-General stands ready to provide lessons learned and assist Member States in any such discussions.

57. The rule of law goals should be harmonized, where possible, with existing processes. One such process, led by the International Dialogue on Peacebuilding and Statebuilding, is to develop indicators for the five peacebuilding and statebuilding goals that were endorsed by 40 Member States at the end of 2011. While the rule of law goals proposed would be broader in scope, and applicable beyond the

peacebuilding context, the Secretary-General proposes that Member States work closely with the International Dialogue so that the two processes are harmonized. The work performed by the International Dialogue could form a useful basis for developing broader rule of law goals.

58. The other pertinent process is that of the Millennium Development Goals and its follow-up after 2015. The Secretary-General notes that rule of law goals would have a positive impact on the achievement of the Millennium Development Goals by promoting a strong enabling environment. However, the two processes should initially develop separately, with a view to alignment in the future.

59. In the light of the above, the Secretary-General proposes that the General Assembly initiate a process to develop and agree on key goals for the rule of law at the international and national levels, and stands ready to support any process that Member States may agree upon in this respect.

B. Consultative forum on the rule of law

60. The many distinct stakeholders active in strengthening the rule of law currently do not meet in a structured way to discuss common policies on the rule of law, and key policymakers in the United Nations do not benefit from the full range of voices available to inform their discussions. A consultative forum could integrate the many distinct voices of relevant stakeholders into coordinated and coherent global policy advice for the United Nations and Member States on strengthening the rule of law at the international and national levels. Such a forum could also be used to generate effective South-South and triangular cooperation in the sector.

61. A consultative forum, open to all Member States, would include representatives of the relevant national authorities, such as prosecutors or judges, the United Nations, other intergovernmental organizations, regional and non-governmental organizations, academic institutions, think tanks and the private sector. The exact composition of each meeting of the forum would vary depending on the issue to be discussed, and would serve to engender transformative multi-stakeholder partnerships.

62. The forum could be guided by a steering committee, with representatives of Member States and stakeholders, and serviced by the United Nations Secretariat. The steering committee would agree on the programme of work for the forum and on the most suitable participants for each meeting of the forum. A transparent mechanism for communication between the steering committee and the stakeholders would be important to ensure participation and broad ownership of the process. The forum would submit regular reports on its work to the General Assembly.

63. The forum could also build on existing processes and link with other global initiatives such as the Global Forum on Law, Justice and Development, a multiconstituency knowledge partnership launched by the World Bank, of which the United Nations Secretariat is a founding partner.

64. In the light of the above, the Secretary-General proposes that the General Assembly mandate him to convene a multi-stakeholder consultative forum on the rule of law, which would meet periodically to discuss specific thematic issues and report to the General Assembly thereon.

C. Comprehensive intergovernmental dialogue

65. The rule of law is a principle cutting across many issues considered by the General Assembly and, consequently, efforts to strengthen the rule of law are discussed in varying dimensions in all the main committees of the General Assembly in the context of their mandates, and by other principal organs of the United Nations. This has previously led to the General Assembly taking a disjointed approach to issues related to the rule of law. The occasion of the high-level meeting affords Member States the opportunity to review how discussions on the rule of law are conducted by the General Assembly.

66. Discussion by the General Assembly in plenary meeting, which would periodically draw together the separate discussions in the main committees, would produce a more coherent and multilayered debate around the rule of law. Such discussions could be further informed by the consultative forum proposed above, as and when requested by the General Assembly. In addition, the programme of action could be periodically reviewed in the context of the plenary meetings of the General Assembly.

67. In the light of the above, the Secretary-General proposes that Member States hold periodic discussions on the rule of law in a plenary meeting of the General Assembly.

IV. Pledges

68. A number of international conferences have been used by Member States to make specific pledges that further the aims of the conference. At the international conferences of the Red Cross and Red Crescent, participants are called upon to sign voluntarily either individual or joint, specific, humanitarian commitments in the form of pledges. The Review Conference of the Rome Statute held in Kampala in 2010 was used by Member States to make specific pledges on cooperation with the International Criminal Court, or on domesticating the Rome Statute. In the Human Rights Council, Member States make specific pledges on strengthening their human rights regimes in the context of their elections to the Council.

69. Member States should take the occasion of the high-level meeting of the General Assembly to make pledges on the rule of law based on national priorities. The pledges must be short, specific and measurable and related to the programme of action outlined above.

70. In the light of the above, the Secretary-General proposes that Member States take the occasion of the high-level meeting to make individual pledges related to the programme of action.